

State of South Dakota

SEVENTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2003

546I0540

HOUSE BILL NO. 1195

Introduced by: Representatives Konold, Nesselhuf, Olson (Mel), Pederson (Gordon), Sebert,
and Solum and Senators Sutton (Dan), Kelly, Koetzle, McCracken, and
Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise the definition of door to door sales.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 37-24-5.2 be amended to read as follows:

4 37-24-5.2. The term, "door to door sale" ~~shall~~ does not include any transaction:

5 (1) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail
6 business establishment having a fixed permanent location where the goods are
7 exhibited or the services are offered for sale on a continuing basis; ~~or~~

8 (2) In which the consumer is accorded the right of rescission by the provisions of the
9 Consumer Credit Protection Act (15 U.S.C. 1635); ~~or~~ as of January 1, 2003;

10 (3) In which the buyer has initiated the contact and the goods or services are needed to
11 meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes
12 the seller with a separate dated and signed personal statement in the buyer's
13 handwriting describing the situation requiring immediate remedy and expressly
14 acknowledging and waiving the right to cancel the sale within three business days; ~~or~~

15 (4) Conducted and consummated entirely by mail or telephone, and without any other



1 contact between the buyer and the seller or its representative prior to delivery of the
2 goods or performance of the services; ~~or~~

3 (5) In which the buyer has initiated the contact and specifically requested the seller to visit
4 ~~his~~ the buyer's home for the purpose of repairing or performing maintenance upon the
5 buyer's personal property. If in the course of such a visit, the seller sells the buyer the
6 right to receive additional services or goods other than replacement parts necessarily
7 used in performing the maintenance or in making the repairs, the sale of those
8 additional goods or services ~~would~~ does not fall within this exclusion; ~~or~~

9 (6) Pertaining to the sale or rental of real property, to the sale of insurance, or to the sale
10 of securities or commodities by a broker-dealer registered with the Division of
11 Securities, Department of Commerce and Regulation; ~~or~~

12 (7) Pertaining to the sale, lease, or repair of motor vehicles, metal buildings, farm
13 machinery or implements, or mobile homes, by a dealer having a fixed permanent
14 location and place of business in South Dakota where such goods and services are
15 offered on a continuing basis; or

16 (8) Between a seller of business consulting services and buyer of business consulting
17 services.